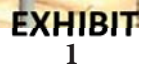


# INDEPENDENT REVIEW OF THE 2017 PROTEST EVENTS IN CHARLOTTESVILLE, VIRGINIA



*Photo credit: Jill Mumie*

Thus, most information came from open sources—news reports, internet postings, social media, etc. That information was compiled and presented in intelligence reports, which were then submitted to CPD’s command staff. The intelligence reports were completed prior to the July 8 event and were subsequently updated before August 12. Additionally, the CPD Chief’s personal assistant was assigned to monitor web sites and social media accounts throughout the weeks leading up to August 12.

Based on their intelligence gathering efforts, CPD planners expected that the Unite The Right event would attract as many as 1,000 supporters. And while estimates for the counter-protester side were difficult to obtain, experience on July 8 suggested that the opposition might be as many as 2,000 people. CPD planners also recognized that the groups associated with the Unite The Right demonstration had violently clashed at various events within the last year, including rallies in Portland, Berkeley, Sacramento, and Anaheim. Based on that size and recent history, Captain Lewis believed that CPD should expect “similar or greater violent clashes” on August 12.<sup>236</sup>

#### **b. Law Enforcement Agencies and Advocacy Groups**

CPD officers received some information from outside agencies and groups. For example, one detective spoke with the police chief in Pikeville, Kentucky and an FBI agent in Louisville to discuss how the Traditionalist Worker Party had behaved during a recent event in Pikeville. The Kentucky officials advised the detective that the TWP had arrived in town early to perform their own intelligence ahead of the rally. The FBI agent told the detective that the TWP was not likely to cause problems, though groups that might show up to oppose them could.

CPD also received an “event assessment” from an investigator at the Anti-Defamation League. The event assessment discussed the Loyal White Knights and several of the groups and speakers associated with the Unite The Right event. The ADL event assessment also provided insight into the schism between some white supremacist groups and the Oath Keepers, a self-styled neutral peacekeeping militia. The ADL noted that the publicity surrounding the Unite The Right event “will likely result in an extremely boisterous counter-protest from militant anti-fascist groups.”

CPD also received information and threat assessments from the FBI’s Richmond field office and the Virginia Fusion Center. These updates suggested that Unite The Right supporters would bring bats, batons, flag sticks, knives, and firearms to confront their political opponents. Similarly, it was suggested that left-wing counter-protesters, such as Antifa, would attempt to disrupt the event using soda cans filled with cement and balloons or water bottles filled with paint, urine, or fuel. The reports also warned that groups on either side might bring pepper spray.

#### **c. Human Intelligence**

Throughout the planning stages for August 12, detectives and officers attempted to contact individuals associated with the various groups that might attend or protest against the Unite The Right event. Some efforts were unsuccessful because groups—like Antifa—have no discernable leadership structure or prefer to remain anonymous.

Efforts to contact local Charlottesville residents associated with counter-protester groups were met with extreme resistance. As described above, officers attempted to speak with members of Standing Up for Racial Justice and Black Lives Matter, resulting in demands by a local attorney that such contacts cease. As a result, detectives were instructed not to reach out to anyone affiliated with those groups. Officers told us that they were frustrated that their safety-focused information-gathering actions were construed as harassment against vocal members of the community and by the resulting limitation in their ability to gather important intelligence.

Members of several militia groups contacted CPD, including George Curbelo and Christian Yingling, the commanders of the New York Lightfoot Militia and Pennsylvania Lightfoot Militia, respectively. Captain Mitchell told us that CPD explicitly rejected coordinating with these groups and asked them to “stay away.” Likewise, Lieutenant Hatter told us that he instructed one of his detectives to contact Yingling and tell him, “do not come to Charlottesville, we do not need your assistance.” From Mitchell’s perspective, inviting the militia would simply increase tension with additional firearms at the event.

Detective Braden Kirby and Officer Logan Woodzell recalled communications with Curbelo. Kirby received e-mails and phone calls from Curbelo asking whether CPD would request the militia’s assistance, which he described as “peace-making.” Kirby told him that CPD did not want assistance, but conceded that the militia had a right to attend. Curbelo said he would send Kirby the militia’s plans, but Kirby never received them. Woodzell spoke with Curbelo on August 11, and Curbelo advised him that they planned to arrive in Charlottesville at 7:00 a.m. on Saturday morning. Woodzell told us that he explained to Curbelo that CPD did not want the assistance, but offered to meet up with the group and escort them to Emancipation Park to make sure they avoided any issues.

Jason Kessler was the most informative human source CPD had in advance of August 12. Captain Lewis was Kessler’s primary point of contact within CPD, and they exchanged e-mails and met on several occasions between early June and the first week of August. Lewis told us that her goal with these exchanges was to determine how far Kessler was willing to work with law enforcement. And, initially, it seemed he would cooperate. For example, they discussed whether Kessler would be able to set up tents in the event of inclement weather and how he could drop off and load audio equipment. On one occasion in July, Kessler came to the police station with his associate Brian Brathovd to review the CPD security plan.

Kessler delegated many police discussions to associates who he designated as “security” for the event. One such individual was Jack Pierce, who Kessler indicated was affiliated with Richard Spencer. Lewis passed Pierce’s contact information to Sergeant Tony Newberry on August 8—four days before the event—to coordinate the arrival of the event speakers at Emancipation Park. Newberry also used their conversations to gather more intelligence.

In addition to Kessler, Brathovd, and Pierce, several other Unite The Right speakers or attendees spoke with CPD officers ahead of the August 12 event. Mike Enoch, an Alt-Right podcast host and event speaker, and Trace Chiles, a former member of the Fraternal Order of Alt-Knights, told us they had brief conversations with officers. Each told CPD that he expected a peaceful rally and hoped the police would protect Alt-Right groups from violent



counter-protesters. We also learned that officers spoke with Eli Mosley and speaker Johnny Monoxide in advance of the event.

### **3. Community Preparation**

While CPD endeavored to gather information about what to expect on August 12, various groups within the Charlottesville community banded together to prepare for Unite The Right. We interviewed various stakeholders involved in these groups, including members of the clergy, social activists, business owners, and community members.

#### **a. The Clergy Collective and Congregate Charlottesville**

The Clergy Collective formed in the aftermath of the June 2015 Charleston church shooting with the goal to create interfaith and interracial conversations and opportunities for fellowship. Nominally led by Pastor Alvin Edwards of Mount Zion First African Baptist Church, the Clergy Collective began with fifteen pastors but eventually grew to over ninety people, both clergy and laity.

In advance of the July 8 Klan event, Mayor Signer and City Manager Jones came to a Clergy Collective meeting and asked for the group's help in "telling the story" of the day. In particular, Signer and Jones hoped to discourage attendance at the Klan event, and thought that the Clergy Collective could help organize and promote alternative programming that would take place simultaneously. Some within the Clergy Collective were put off by Signer and Jones's message, because many in the group felt called to confront the Klan and the speech they would present. Any attempt to push that confrontation away felt patronizing.

After the July 8 rally, the division within the Clergy Collective split. Many of the members who had gone to Justice Park on that day thought CPD had planned to do nothing but "protect white supremacy" and lacked a basis to use tear gas. The image of police focusing exclusively on protecting the Klan and then acting aggressively toward counter-protesters angered many, and that memory informed preparations for August 12.

Led by Seth Wispelwey and Brittany Caine-Conley, these individuals formed a new group called Congregate Charlottesville. Wispelwey told us that the Clergy Collective was too close to the City "establishment" and lacked transparency. He explained that Congregate Charlottesville's goal was to "equip faith leaders to show up on matters of justice." They put out a call for 1,000 clergy to attend the August 12 event. In the weeks leading up to August 12, Congregate organized a series of trainings for nonviolent direct action to anyone who was interested in participating. They brought in trainers from out of town, including Reverend Osagyefo Sekou. We learned that some trainings were attended by as many as 100 people, and participants were repeatedly warned about the potential for significant violence on August 12. Members of Black Lives Matter and Standing Up for Racial Justice also attended the trainings.

Individuals who attended these trainings told us that their goal was to create "cognitive dissonance" and to delay and obstruct the hate speech that they expected. They wanted to be visible in the opposition to the right-wing groups and make it harder for them to have a platform to express racism. In service of that mission, they were willing to break the law

reservations had been cancelled or got into trouble on August 12. The planning document also advised attendees about the items they could permissibly bring to the park. Firearms were legal, but organizers implored gun owners to be sure they were complying with Virginia law. They advised against bringing knives, tasers, or masks. Shields, flags, and flagpoles could be brought, but attendees should avoid using anything that could be construed as a weapon and shields should only be used “defensively.” Helmets were recommended, and pepper spray was allowed—but they discouraged its deployment.<sup>243</sup>

With respect to conduct, the planning document advised all attendees to avoid violence “at all costs outside of what is needed to defend our people.” The Unite The Right rally was to be “as open as friendly as possible,” so attendees were warned to “refrain from being overly edgy for the sake of edginess.” In other words, they should remember “that we are trying to gain sympathy from whites and the general right wing.” Attendees were asked to “refrain from roman salutes”—akin to the Nazi salute—and remember cameras would be everywhere on August 12.<sup>244</sup>

Mosley went over the three plans organizers had developed. He described a color-coded system—green, yellow, and red—for each contingency. If the permit for Emancipation Park stayed in place, then Plan Green called for attendees to arrive as planned for an event to start at noon. If police refused to secure Emancipation Park, then Plan Yellow called for attendees to get to the park early to secure the area and start speeches at 10:00 a.m. Finally, if police refused to secure the area and intended to arrest attendees, then Plan Red called for them to go to the park “to engage in civil disobedience.”<sup>245</sup>

As for transportation to the park, the planning document explained that there would be a rally point from which transport vans would take attendees to Emancipation Park. The document suggested that they would attempt to get the vans beyond the traffic barricades, if police would allow it. Barring that, however, the document stated, “we will form all forces at the Line of Departure and march into the park together, using the shield wall to keep hostile forces away from our civilians and HVT’s [high-value targets].”<sup>246</sup>

The document also advised attendees of two other events that would be held in Charlottesville. On Friday night, attendees were invited to participate in a torch-lit rally at the “Jefferson Monument” on UVA’s campus. Then, on Saturday night, the organizers would host an after party. Party-goers were required to send money through PayPal to buy a ticket.<sup>247</sup>

## **h. City Council Preparation**

### **1) Community Response**

The City did not officially sponsor any alternative events to divert attention away from the August 12 Unite The Right event. Instead, City leadership encouraged local groups and organizations to hold their own programs. We heard from members of the Charlottesville Clergy Collective that City leaders encouraged the faith community to “take the lead in a community-wide response.” Mayor Signer reached out to UVA professor and Vice-Provost for Academic Outreach Louis Nelson in mid-July to encourage UVA to develop alternative programming for City residents. Nelson jumped into action and ultimately developed a

2nd Street NE and High Street with a marked unit blocking southbound vehicle traffic on 2nd Street NE. She was not authorized to carry a weapon in her job, but she did have pepper spray. Nevertheless, her traffic supervisor had instructed all the civilians manning traffic posts that if things “went south” they “need to get out.” Hueschen was not given any intelligence about the event, but she told us that her superiors “expected things to go south.” That morning, Hueschen had seen, in her words, “tons” of foot traffic. White passenger vans had been running on a loop since mid-morning, continuously dropping Unite The Right demonstrators off on High Street between 2nd and 3rd Streets NE, just to the east of her location. She believed the van shuttles were clearly an organized effort.

Hueschen saw the fight break out at 10:00 a.m. just south of her position. She said people had been arguing as they walked south towards the park. By the time they approached the barricades at Jefferson Street—which were blocking off the law enforcement area of Zone 4—there was a mob of thirty or forty people in a commotion. The fight broke out, but she could not tell who was doing what. She told us that she expected the VSP troopers standing nearby to react, but they did nothing. The scuffle lasted five minutes, until finally some troopers started to walk towards the groups.

From Peyton’s perspective, it appeared that the Unite The Right demonstrators had focused their aggression on a middle-aged black man. As the troopers approached, the Unite The Right demonstrators took off running and darted through the FUMC parking lot. They laughed among themselves and shouted, “You want some more?”

Lieutenant Gore reported the confrontation between the groups to the Command Center at 10:08 a.m. Five minutes later, he requested additional assistance, so the CPD squad from Zone 2 was deployed. Body camera footage shows that, by the time they arrived, there were nearly two dozen officers standing around the area and the fight had long since ended. EMTs treated one person for a head injury, while street medics treated another injured counter-protester. Some individuals refused treatment. After a few minutes, CPD officers withdrew and returned to their zones. No arrests were made.

Eugene Locke witnessed the fight behind FUMC. Mr. Locke told us he walked over to police at the corner of Jefferson Street and 2nd Street NE and told them he thought the lone officer at the corner of 2nd and High was insufficient. He suggested one or two officers join her. The police officer replied to the man, “I can’t spare anymore.”

Hueschen told us that people came to ask her why she had not intervened in skirmishes during the day. She was reluctant to respond that she was not a police officer, because she did not want to become a target. But she also knew she could not run a mob of people off on her own. She remained at her post all day.

#### **b. 2nd Street NE and East Market Street**

At 10:21 a.m., a large group of counter-protesters wearing helmets and carrying a banner reading “Fascist Scum” confronted Alt-Right demonstrators on Market Street between 1st Street and 2nd Street NE. At 10:26 a.m., a scuffle broke out when a counter-protester tried to grab a demonstrator’s flag in the center of Market Street directly south of the Lee statue. CPD officers in Zone 5 walked up to the barricade, and Sergeant Larry Jones reported to

pointed at the clergy blocking the southeast staircase and asked, “Through that?” The officer responded, “That’s the only way.” The man walked away. One officer turned to his colleague and said, “Welcome to Charlottesville.”

**c. Police Fail to Intervene as Violence Increases**

At that moment, a massive column of hundreds of Unite The Right demonstrators marched west down Market Street towards the southeast entrance of Emancipation Park. Led by members of the League of the South and the Traditionalist Worker Party, they wore helmets and carried shields, flagpoles, and pepper spray. The crowd of counter-protesters saw this, and they rushed east to form their own blockade in front of the clergy. They locked arms and blocked Market Street.<sup>324</sup>

Captain Shifflett called out the sudden movement of counter-protesters at 10:52 a.m. Around that same time, an officer in Zone 2 observed, “They’re trying to take over the street.” Officer Hulme saw this and remarked, “This is going to get ugly—they’re blocking their passage. This is going to get really ugly if they don’t get out of the way.” He paused for a moment then commented, “I thought we had a Zone 5 right here,” as he pointed out to the area where the groups were coming together in the middle of the street. Of course, Zone 5 was another twenty feet beyond that intersection behind a row of metal barricades, and the officers in that zone were standing another twenty feet from the road.

Seconds later, a brawl broke out on Market Street. Unite The Right demonstrators pushed forward with their shields and hit the counter-protesters with flagpoles. Open source video footage shows demonstrators violently jabbing the poles at counter-protesters’ faces. The counter-protesters fought back and tried to grab the flagpoles away. Eventually, the demonstrators pushed the counter-protesters away with brute force and a cloud of pepper spray.

Body camera footage shows that police officers in Zone 1 witnessed all of this. They called out the fight and observed that pepper spray had been deployed. Body camera footage shows people attacking each other in plain view of the officers. The officers stood behind the barricades and watched.

At 10:57 a.m., a woman approached the outer barricade outside of Zone 1 and got Officer Ernest Johnston's attention. She asked, "Are you going to engage the crowd at all?"

"Not unless I get a command to," Officer Johnson responded.

"Even if there are people physically hurting one another?" she asked.

"If I'm given the command to act, yes ma'am, I will." She repeated her question, and he gave the same answer: he would engage if and when he was commanded to do so.

Tim Messer, a witness with whom we spoke, explained that the skirmishes he observed followed a consistent pattern. As the Unite The Right groups approached Emancipation Park, counter-protesters shouted "here they come" and formed blockades. The demonstrators then used shields, flags, or fists to start skirmishes, all of which were eventually broken up by pepper spray. The crowd would then part and allow them entry into the park. That scenario played out at least half a dozen times. Mr. Messer encountered a VSP trooper near 2nd and Market Streets and asked him why police had been standing back. The trooper replied, "Our policy today is that we cannot get involved in every skirmish, and we are here to protect the public's safety." The witness was incredulous that police would allow the fights to go on, but the trooper reiterated, "That is our policy."

At 10:59 a.m., Captain Shifflett relayed to the Command Center that 2nd and Market Street were once again "getting ready to erupt any second now." A moment later, he reported another fight of "about forty people going at it, they're using sticks." He again radioed, "Weapons are being used on Market and Second Street." He added, "Recommend unlawful assembly."

#### **d. Withdrawal of CPD To Rear of Park**

At 11:01 a.m., the Command Center ordered all CPD units to go to Zone 4 to suit up. All Charlottesville officers stationed inside the park and along the sides near the park entrances withdrew to the back of Emancipation Park to put on their riot gear. CPD Officers in Zone 5 withdrew to the lobby of the Wells Fargo building for the same purpose. When CPD withdrew, only VSP troopers remained within the five zones in and around Emancipation Park. The troopers did not have riot gear and remained standing behind the barricades.

When the CPD officers arrived at the supply trailer, they had to fish through plastic bins to find their gear, which included gas masks, riot shields, and ballistic helmets. For many of them, it was the first time they had ever worn this equipment. At one point, officers called for more gas masks, only to learn that all the department's gas masks were already there. It took about fifteen minutes before all officers were suited up. And, much to their chagrin, the zone commanders could not locate all of the bullhorns that would be needed to disperse the crowd.

In the meantime, the intersection at Market and Second Street descended into chaos. The brawling continued and became violent as Unite The Right demonstrators who had just entered the park began to rove out from the southeast staircase, forming shield walls to push the counter-protesters back. Bottles, balloons filled with unknown substances, and debris



flew through the air. The clouds of pepper spray rose every few minutes. By 11:08 a.m., Maurice Jones and the Regional Policy Group declared a local and regional state of emergency. At 11:13 a.m., COB McIntire was put on lockdown.

Chief Thomas's response to the increasing violence on Market Street was disappointingly passive. Captain Lewis and Chief Thomas' personal assistant Emily Lantz both told us that upon the first signs of open violence on Market Street, Chief Thomas said "let them fight, it will make it easier to declare an unlawful assembly." Thomas did not recall making that statement, though he did confirm that he waited to "see how things played out" before declaring the unlawful assembly. Regardless of what he said, Chief Thomas' slow-footed response to violence put the safety of all at risk and created indelible images of this chaotic event.

### 3. Unlawful Assembly

At 11:31 a.m., thirty minutes after Captain Shifflett requested authority to declare the event unlawful and CPD officers were ordered to withdraw to Zone 4, Chief Thomas called for the declaration of unlawful assembly. Zone commanders were instructed to announce the unlawful assembly and that all present must disperse or else be arrested. A few moments later, the Command Center clarified that zone commanders should "declare but do not move" from their position near the back of the park, as they needed to wait for the VSP mobile field force to deploy and get into position. The commanders made the announcements from Zone 4, but remained at least half a block away from the melee at 2nd and Market.

At almost the exact moment the unlawful assembly order went out, a smoke grenade was deployed by someone at the southeast corner of the Park. The crowd scattered. Overhead, the VSP helicopter footage showed the smoke tail of the grenade trailing back and forth as demonstrators and counter-protesters picked it up and threw it back at each other. Out of the pure happenstance of that smoke grenade, much of the crowd dissipated—for a moment.



Photo Source: Patrick Morrissey

As CPD made the announcement of an unlawful assembly over their bullhorns, the barricades running down the center of Emancipation Park to form Zone 2 were toppled by Unite The Right demonstrators. Many demonstrators crossed the open area to the western half of the park and waited in the crush of people filing out through the bottlenecked southwest entrance. Other belligerent Alt-Right demonstrators remained at the southeast entrance, continuing to throw objects and hurl insults at their opponents in Market

Street. Sam Dickson, a lawyer who attended the Unite The Right event, told us that he asked to help police officers clear the park by making an announcement to those gathered

and explaining why they needed to leave, but he was “rudely rebuffed” by law enforcement.<sup>325</sup>

We asked every member of the CPD command staff why the unlawful assembly took so long to call. Uniformly, everyone ascribed the delay to the time it took to bring the VSP mobile field force to Emancipation Park from the Jessup House. They also told us that VSP insisted on extracting its undercover officers from the crowd before the unlawful assembly was declared, and that process took much longer than expected. Colonel Flaherty acknowledged that some portion of the delay in declaring the unlawful assembly was due to the failure to locate one VSP undercover officer who had been deployed within the crowd. He indicated, however, that the undercover agent had been out of the park for some time.



**Map of the deployment paths of VSP's mobile field force units.**

The VSP mobile field force began entering Emancipation Park at 11:44 a.m. By that time, the majority of Unite The Right demonstrators had cleared out of the park through the southwest entrance. The mobile field force formed an east-west line just south of the Lee Statue and stood shoulder-to-shoulder with their shields in front of them. At 11:49 a.m., they started to inch south, showing those still present that they needed to leave. By this time, demonstrators and counter-protesters were fighting inside the park, and they engaged in more violent confrontations—throwing debris, attacking each other with sticks, and recklessly spraying pepper spray—within a few yards of the approaching mobile field force line.



indicated that for the safety of both his people and the people VSP will encounter in a mass unrest situation, he would prefer to have his officers exercise caution.

Finally, at 11:56 a.m., the CPD officers were ordered to form up VSP's rear guard inside the park. At 12:06 p.m., the Governor declared a state of emergency. By 12:13 p.m., Emancipation Park had been cleared.

## **5. After the Unlawful Assembly**

The crowds in and around Emancipation Park dissipated in various directions. The field forces that had cleared the park formed two groups, facing east and west on Market Street. Their goal was to prevent any pedestrians from returning to the park. The demonstrators and counter-protesters dispersed in various directions. Other than the route south across the Downtown Mall on 1st and 2nd Streets, there were no officers stationed along the routes of egress. Violence broke out in all directions.

### **a. A Gunshot and Punches at 1st and Market**

Most of the Unite The Right groups left Emancipation Park through the southwest stairs. As the VSP field force pushed the crowd south onto Market Street, it forced the demonstrators into the angry crowd of counter-protesters. Predictably, several violent acts ensued.

The most notorious incident from those tense moments involved a homemade flamethrower and a gunshot. As Alt-Right demonstrators left the park and turned right to move west down Market Street, they passed by counter-protester Corey Long. Video taken by a bystander shows Long igniting the spray from an aerosol canister and pointing the flames at passing demonstrators. Richard Wilson Preston, a Ku Klux Klan leader from Maryland, saw this as he exited the park. He drew his handgun and pointed it at Long while screaming at him to stop. Preston loaded a round into the chamber of his gun then fired a single shot at the ground next to Long. He holstered his gun and walked away. VSP troopers, identified by their neon yellow vests, stood in a line behind two barricades about twenty feet away. None appeared to react.<sup>326</sup>

An unprovoked assault happened at that same corner, shortly before or after the Long-Preston interaction. The victim, a counter-protester who asked to remain anonymous, told us she was standing about where Preston had fired his gun, and she was yelling at the demonstrators as they walked by. One Unite The Right demonstrator walked up to her and punched her in the face. She provided us with a video of the incident, which shows the incident as she described. The victim of this assault told us that after she was punched, she stumbled up to the state troopers standing at the barricades to ask for help. None of them responded. She later learned she suffered a concussion.<sup>327</sup>

Samuel LeBeau told us that he was at the southwest corner of the park around the time of the gunshot. Mr. LeBeau told us he witnessed an assault against a Unite The Right attendee. He told us that as the Alt-Right demonstrators filed out of the park, a counter-protester emerged from the crowd with a clear liquid. He threw it in the demonstrator's face, inflicting visible pain. Again, no law enforcement officers responded to the scene.